

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on:10.02.2025

Pronounced on:04.02.2025

WP(C) No.249/2025

CM No.485/2025

1. State (now U.T) of Jammu & Kashmir,
through its Commissioner/Secretary,
Rural Development Department,
Civil Secretariat, U.T. of J&K,
Jammu/Srinagar.
2. Commissioner-cum-Secretary,
Finance Government, Civil Secretariat,
UT of J&K at Jammu.
3. Commissioner-cum-Secretary,
General Administration Department,
Civil Secretariat, U.T. of J&K at
Jammu.
4. Director,
Rural Development Department,
Jammu.

.....Petitioners

Through: Mr. S.S. Nanda, Sr. AAG

versus

1. Sanjeev Kumar, Aged 44 years,
S/O Ram Lal, R/O Bigwan, Kathua.
2. Mohan Lal, Aged 49 years,
S/O Brite Ram, R/O Serhad, Purmandal.
3. Mohan Lal, Aged 52 years,
S/O Maru Ram, R/O Madana,
Purmandal.
4. Kartar Chand, Aged 55 years,
S/O Mangal Ram, R/O Sardal,
Purmandal.
5. Sukhdav, Aged 55 years,
S/O Mani Ram, R/O Sagwal,
Purmandal.

6. Kamaljeet Kindal, Aged 53 years,
S/O Sudha Ram, R/O Bispur,
Purmandal.
7. Shabir Hussain, Aged 50 years,
S/O Nazir Hussain, R/O Mendar.
8. Akbar Hussain, Aged 52 years,
S/O Said Mohd, R/O Mendhar.
9. Surinder Kour, Aged 50 years,
W/O Late Sh. Harbans Singh,
R/O Poonch, ACD, Poonch.
10. Mohd. Bashir, Aged 58 years,
S/O Mohd Zasim, R/O Poonch.
11. Manzoor Hussain, Aged 57 years,
S/O Ahmad Joo, R/O Mandi, Poonch.
12. Sheetal Kumar, Aged 50 years,
S/O Madan Lal, R/O Poonch.
13. Madhu Bala, Aged 51 years,
D/O Krishan Lal, R/O Poonch.
14. Shakeel Ahmed, Aged 50 years,
S/O Mumtaz Khan, R/O Balakote.
15. Man Singh, Aged 47 years,
S/O Ghanbi Sinchand, R/O Hengan,
Bhaderwah.
16. Bharat Singh, Aged 45 years,
S/O Prem Singh, R/O Dharsakri Budal.
17. Mohd Ishaq, Aged 45 years,
S/O Mohd. Yaqoob, R/O Menjakote,
Budal.
18. Karan Singh, Aged 55 years,
S/O Mukhtyar Singh, R/O Tapyal,
Ghagwal.
19. Des Raj, Aged 49 years,
S/O Milkhi Ram, R/O Sinder, Bishnah.
20. Ashok Kumar, Aged 48 years,
S/O Ram Dess, R/O Bigwan, Barnati.
21. Dharam Pal, Aged 50 years,
S/O Charan Dass, R/O Naryanpur,
Barnati.

22. Ranjeet Kumar, Aged 46 years,
S/O Chaman Lal, R/O Bigwan, Barnati.

23. Joginder Singh, Aged 55 years,
R/O Barwal, Barnati.

24. Satpal, Aged 47 years,
S/O Dhani Ram, R/O Saktachuk,
Barnoti.

25. Chuni Lal, Aged 54 years,
S/O Chaine Ram, R/O) Pathwal,
Hiranagar.

.....Respondents

Through: Mr. Pranav Kohli, Sr. Advocate with Mr.
Muddassir Zubair, Advocate and Mr.
Farhan Mirza, Advocate.

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE M.A. CHOWDHARY, JUDGE**

JUDGMENT

(Per Tashi Rabstan – CJ)

1. This petition is directed against the order dated 02.05.2024 passed by the Central Administrative Tribunal, Jammu Bench, Jammu in T.A. No.61/1636/2020, whereby, while allowing the transfer application, the learned Tribunal directed the petitioners herein to accord consideration to the regularization of applicants-respondents herein in terms of SRO 64 of 1994 as they have rendered more than seven years of continuous service as Daily Wagers.

2. The facts, as gathered from the file, are that the respondents herein were engaged as Daily Wagers in the Rural Development Department prior to coming into force SRO 64 of 1994 dated 24.03.1994. It is claimed by them that they are continuously discharging their duties as daily wagers from the date of their engagement. Since they have already completed seven years of

continuous service, as such are entitled for their regularization under the said SRO. As the petitioners herein failed to regularize their service, they filed a petition before this Court which came to be transferred to the learned Tribunal. The learned Tribunal vide order dated 02.05.2024 directed the petitioners herein to accord consideration to the regularization of applicants-respondents herein in terms of SRO 64 of 1994.

3. Feeling aggrieved, the petitioners herein have filed the present petition against the order/judgment of learned Tribunal averring therein the respondents herein were initially engaged as Casual Labourers, as such are not eligible for regularization in terms of SRO 64 of 1994.

4. Heard learned counsel appearing for the parties, considered their rival and contentions and also perused the file.

5. Admittedly, in the petition, the petitioners herein have not denied that the respondents herein were engaged in the Rural Development Department prior to coming into force SRO 64 of 1994 nor have denied that all the respondents herein have already completed seven years of continuous service, even as of now they have completed more than 30 years of continuous service. The petitioners-department have also not denied the treasury vouchers, which the respondents herein had placed on record with the petition decided by the learned Tribunal. Even, the petitioners have not denied that the services of number of Daily Wagers, who were engaged prior to coming into force SRO 64 of 1994, have already been regularized in terms of the said SRO.

6. The only ground taken by the petitioners herein is that since the respondents herein were initially engaged as Casual Labourers, as such their services cannot be regularized in terms of SRO 64 of 1994.

7. This Court in *Ashok Kumar vs State of J&K*, 2003 (II) SLJ 475, has held that any casual labourer, who has continued for a fairly long spell, a presumption would arise that there was a regular need for his services and in such a situation, a person cannot be deprived of right of regularization, which he has earned by serving the Department for more than seven years, on the plea that he was only a casual labour and not a daily rated worker entitled to be regularized in terms of SRO 64 of 1994.

8. In the present case, the respondents herein not only were engaged prior to the coming into force SRO 64 of 1994, even as on today they have completed more than 30 years of continuous service. The petitioners herein have also failed to satisfy the Court as to how the cases of respondents herein were different from those persons whose services were regularized in terms of SRO 64 of 1994. In fact, for all intent and purposes, the respondents herein are similarly situated with those persons whose services came to be regularized in terms of the said SRO.

9. While allowing the appeal(s) filed by the workmen and directing the respondent-employer to initiate a fair and transparent process for regularizing these workmen in case, Civil Appeal No.8157/2024 with Civil Appeal Nos.8158-8179 of 2024, titled as, *Shripal vs Nagar Nigam, Ghaziabad*, decided on 31.01.2025, what is held by the Apex Court is reproduced hereunder:

“13. By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners

but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of “equal pay for equal work,” repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer’s direct supervision belie any notion that these were mere short-term casual engagements.

14. The Respondent Employer places reliance on **Umadevi** (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, **Uma Devi** itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, **Uma Devi** cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer’s failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfill ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite “temporary” employment practices as done by a recent judgement of this court in **Jaggo v. Union of India** in the following paragraphs:

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage

in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

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25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of “Temporary” Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite contributions being equally significant.
- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.
- **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.”

10. Viewed thus, we are not inclined to take a view other than the one taken by the learned Tribunal. Accordingly, the petition is dismissed and the judgment/order of learned Tribunal is upheld. Connected miscellaneous CM, accordingly, stands disposed of.

Jammu 04.03.2025 (Anil Sanhotra)	(M.A. Chowdhary) Judge	(Tashi Rabstan) Chief Justice
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Whether the order is reportable ?	Yes
Whether the order is speaking ?	Yes